



**U.S. Department of Veterans Affairs**  
**Office of General Counsel**

Torts Law Group  
810 Vermont Avenue, NW  
Washington, DC 20420

Phone: (202) 461-4900

In Reply Refer To: GCL 472248

Via Certified Mail #7019 2280 0000 6144 7054

November 24, 2020

Burger Law, LLC  
ATTN: Gary K. Burger, Jr., Esq.  
500 N. Broadway, Suite 1860  
St. Louis, MO 63102

Re: Administrative Tort Claim on behalf of Michael Steinway

Dear Mr. Burger:

The Department of Veterans Affairs (VA) has thoroughly investigated the facts and circumstances surrounding your client's administrative tort claim.

The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b) and 2671-2680, under which you filed this claim, provides for monetary compensation when a Government employee, acting within the scope of employment, injures another by a negligent or wrongful act or omission. Medical negligence means there was a breach in the standard of care and that breach proximately caused an injury. The standard of care is the level at which similarly qualified medical professionals would have managed the care under the same or similar circumstances.

Our review concluded that there was no negligent or wrongful act on the part of an employee of the Department of Veterans Affairs (VA) acting within the scope of employment that caused your client compensable harm. Accordingly, we deny this claim.

If you are dissatisfied with the VA's denial of the claim, you may file suit directly under the FTCA, sections 1346(b) and 2671-2680, title 28, United States Code. The FTCA provides that when an agency denies an administrative tort claim, the claimant may seek judicial relief in a proper Federal District Court. The claimant must initiate the suit within six months of the mailing of this notice as shown by the date of this denial. See, section 2401(b), title 28, United States Code. In any FTCA lawsuit, the proper party defendant is the United States, not the Department of Veterans Affairs (or an individual health care provider).

Please note that FTCA claims are governed by a combination of Federal and state laws. Some state laws may limit or bar a claim or law suit. VA attorneys handling FTCA claims work for the Federal government, and cannot provide advice regarding the impact of state laws or state filing requirements.

Sincerely,

Jennifer Hansen  
Acting Deputy Chief Counsel

**EXHIBIT 2**